

GORSON & GORSON, P.C.

BY: Noah Gorson, Esquire
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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
VS.	:	CRIMINAL NO. 11-420-01
	:	
ALI CHARAF DAMACHE	:	

DEFENDANT'S SENTENCING MEMORANDUM

I. INTRODUCTION

On March 9, 2010, Defendant, Mr. Damache, was arrested in Ireland and charged with an offense under Section 13 Post Office (Amendment) Act 1951 in relation to a threatening phone call made to an individual in Detroit, Michigan. He remained in Irish custody until February 27, 2013 at which time he pleaded guilty and was released but immediately re-arrested on a United States extradition request. Mr. Damache remained in Irish custody while he contested the extradition request. On May 21, 2015, he was released from Irish custody upon Judgment of Ms. Justice Donnelly of the High Court at Record Number 2013 51 EXT, 2013 670 JR & 2014 112 JR denying the extradition request. (See letter from Anne Farrell, Criminal Mutual Assistance and Extradition Division of the Irish Department of Justice and Equality certifying that Mr. Damache was held in Irish custody solely on the basis of the extradition request from the United States from February 27, 2013 to May 21, 2015, attached hereto as Exhibit "A".)

On December 10, 2015 Mr. Damache was arrested by Spanish authorities pursuant to an Interpol Red Notice and held in Spanish custody on United States charges until July 21, 2017 when he was extradited. (See letter from Paula Monge Deputy Director International Legal Cooperation of the Spanish Ministry of Justice certifying that Mr. Damache was held in Spanish custody solely on the basis of the extradition request from the United from December 10, 2015 until July 21, 2017,

attached hereto as Exhibit “B”.)

Mr. Damache has been in United States Federal custody effective July 21, 2017, following his arrest by the Federal Bureau of Investigation.

On July 23, 2018, Defendant, Mr. Damache, pleaded guilty to Count One of the Superseding Indictment, charging him with conspiracy to provide material support to terrorists in violation of 18 U.S.C. § 2339A. The guilty plea was pursuant to a plea agreement in accord with F.R.Crim.P. Rule 11(c)(1)(C) and specified that the appropriate sentence for this case is 180 months imprisonment, the statutory maximum permitted. Mr. Damache and the Government have, in addition to the appropriate sentence, agreed to certain terms regarding his immediate removal from the United States upon completion of his sentence to Ireland (his place of citizenship) and that neither the Eastern District of Pennsylvania nor the National Security Division will oppose credit for time served in Ireland and Spain as a direct result of the United States’ extradition request.

18 U.S.C. § 3585(b) provides that a term of imprisonment should be calculated as follows:
“A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date sentence commences –
(1) as a result of the offense for which sentence was imposed
...
That has not been credited against another sentence.”

Sentencing is scheduled for October 30, 2018 and this memorandum is being submitted on behalf of Mr. Damache.

II. HISTORY

Mr. Damache is an Irish citizen having taken a long and circuitous route from his birth on March 21, 1965 in a small and impoverished home in Mostaganem, Algeria. Along the path from Algeria to Waterford, Ireland where he was arrested on March 9, 2010, there were stops in Paris (where he married and had two children – his wife, unfortunately, passed away from cancer at the age of 36), Turkey (where he worked for the Red Crescent Society, part of the International Red Cross and Red Crescent Movement) and, finally Ireland (where he married Mary Cronin in 2004, obtained Irish citizenship but became separated in 2010). None of his peregrinations took him to any middle eastern Muslim countries nor had he demonstrated any devout Muslim practice. Mr. Damache never traveled to the United States until his extradition on July 21, 2017 and has remained in United States Federal custody at FDC Philadelphia since then.

His adjustment to conditions in the United States has been difficult due to language barriers and ignorance of America in general and specifically the justice system. Despite natural apprehensions and these initial difficulties, he has made significant adjustment through his fair treatment by FDC Philadelphia staff and the attention of the Irish Council for Prisoners Overseas ("ICPO"). He has taken courses offered at FDC Philadelphia including Victim Impact: Listen and Learn and Anger Management/Emotional Control. (Attached hereto as Exhibit "C" is a letter dated July 27, 2018 from Scott Barrett, Reentry Affairs Coordinator confirming the former, confirmation of the later has yet to be received).

III. SENTENCING CALCULATIONS

The PSR prepared by Senior U. S. Probation Officer Megan Maier is fundamentally accurate; although, some of the background information has been disputed none of these items affect the conclusions set forth in the PSR. The sentencing calculations are summarily set forth in the Government's Sentencing Memorandum, at pages seven to eight (7-8) are accurate and Mr. Damache does not contest same.

IV. CONCLUSION

The Government and Mr. Damache have agreed that a 180-month sentence followed by uncontested removal to Ireland is the appropriate disposition of this case. As the Government notes the related cases, involving three American, have been resolved through plea agreements and each was sentenced as follows:

- 1) Colleen R. LaRose – 10 years designated to a low security facility FDC Tallahassee;
- 2) Jamie Paulin Ramirez – 8 years designated to a low security facility FCI Waseca; and,
- 3) Mohammad Hassan Khalid – 5 years designated to a low security facility FCI Danbury.

A 180-month sentence is an appropriate and proportionate disposition of this matter. Mr. Damache has demonstrated an ability and desire to return to Ireland and take his place as a law abiding and productive citizen. The Deputy Consul General of Ireland in New York has indicated their intentions to visit with Mr. Damache and assist him and the United States in the efficient removal from the United States and his re-entry and settlement in Ireland upon completion of his sentence. Mr. Damache respectfully requests the court to recommend that he be designated to a

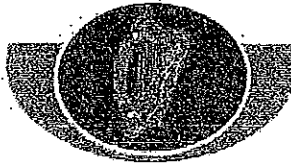
Mid-Atlantic regional facility so as to render visits from the ICPO and Deputy Consul General of Ireland more easily arranged. (Attached hereto as Exhibit "D" is a letter from Leslie Alcock, ICPO Caseworker, describing the mission and efforts of the ICPO and its commitment to continue to provide support to Mr. Damache, an Irish citizen, which will be of significant assistance with his removal and re-entry to Ireland.

/s/ Noah Gorson

BY: Noah Gorson, Esquire
1845 Walnut Street, Suite 1300
Philadelphia, PA 19103
(215) 569-4661

EXHIBIT A

AN ROINN DLÍ agus CIRT agus
COMHIONANNAIS
51 Faiche Stiabhna
Baile Átha Cliath 2
Teileafón/Telephone: (01) 602 8762
Ríomhphoist/e-mail: aefarrell@justice.ie




DEPARTMENT OF JUSTICE and
EQUALITY
51 St. Stephen's Green
Dublin 2
Facsimhír/Fax: (01) 602 8750

Office of International Affairs
Criminal Division
Department of Justice
United States of America

For the attention of Mr. David Silverbrand

Re:- Ali Charaf Damache

Mr. Ali Charaf Damache was committed to Prison under an extradition warrant dated 27 February 2013 and was released by an Order of the High Court on 21 May 2015. The entire duration of incarceration was pursuant to the extradition request from the United States.


Anne Farrell
Criminal Mutual Assistance and
Extradition Division

14 May 2018

EXHIBIT B



MINISTERIO
DE JUSTICIA

SECRETARÍA DE ESTADO DE JUSTICIA

DIRECCIÓN GENERAL DE COOPERACIÓN
JURÍDICA INTERNACIONAL Y RELACIONES
CON LAS CONFESIONES

SUBDIRECCIÓN GENERAL DE COOPERACIÓN
JURÍDICA INTERNACIONAL

O F I C I O

S/REF. Ali Charaf DAMACHE

NREF. Ext P-D. 1893-15

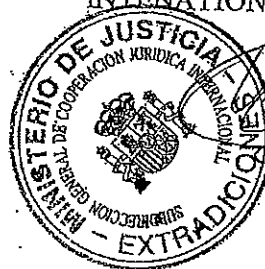
FECHA 10 de mayo de 2018

ASUNTO Extradition of Ali Charaf Damache
from Spain to the United States

Roberto Iraola
Senior Trial Attorney
Office of International Affairs
U.S. Department of Justice
1301 New York Avenue, NW
Washington, D.C. 20005

The Spain Ministry of Justice wishes to hereby inform that Ali Charaf Damache was arrested on 10 December 2015 on the basis of a Red notice and held on U.S. charges until he was extradited on 21 July 2017. Further, during his detention, Damache was not held on any Spanish charges and thus his detention was not credited to any other sentence.

DEPUTY DIRECTOR
INTERNATIONAL LEGAL COOPERATION



Paula Monge

CORREO ELECTRÓNICO:

(D) paula.monge@mjusticia.es

SAN BERNARDO, 62
28015 MADRID
Tfno. 34913902479

EXHIBIT C



U.S. Department of Justice

Federal Bureau of Prisons

Federal Detention Center

700 Arch Street
Philadelphia, PA 19105

July 27, 2018

MEMORANDUM TO CENTRAL FILE

FROM: Scott Barrett Reentry Affairs Coordinator

RE: Ali Charaf Damache, Reg. 76161-066

On May 4, 2018, Ali Charaf Damache, began voluntarily participating in Victim Impact: Listen and Learn, at the Federal Detention Center. This group, facilitated by the Reentry Affairs Coordinator, confronted common thinking errors that offenders use to justify their crimes and developing empathy for the victims. He participated in each session, which met once per week, and completed this course of study on July 27, 2018.

/s/ Scott Barrett RAC.

Scott Barrett
Reentry Affairs Coordinator
FDC Philadelphia, PA 19106
(215) 521-7218

EXHIBIT D

Irish Council for Prisoners Overseas

Supporting Irish Prisoners Overseas and their Families



The Honorable Petrese B. Tucker
U.S. District Court Judge
U.S. Courthouse
601 Market Street, Room 16613
Philadelphia, PA 19106

25th October, 2018

To the Honorable Petrese B. Tucker,

I hope this finds you well.

My name is Leslie Alcock and I am a caseworker for the Irish Council for Prisoners Overseas (ICPO). The ICPO was set up in 1985 by the Irish Catholic Bishop's Conference to provide information, support and advocacy to Irish people in prison overseas and to their families. We offer a free and confidential service to all in the above categories. There are over 1,100 Irish citizens imprisoned in 30 countries around the world.

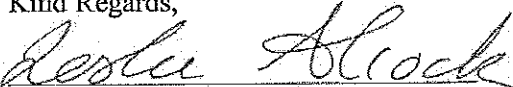
In addition to providing information and advocacy, our support to clients involves connecting them with volunteers who will visit regularly. Usually these volunteers are from Ireland or are of Irish descent and living in the United States. The distance from Ireland, makes it very difficult for our client's families and friends to visit regularly. Maintaining relationships during a period of imprisonment is vital for the well-being of offenders.

ICPO has strong connections with the Irish communities along the east coast of the United States, especially in Pennsylvania. As a result, we were able to arrange for a volunteer to visit Mr. Damache. The ICPO intend to continue to offer support to Mr. Damache for the duration of any sentence handed down by the court. The ICPO will be arranging regular visitation to Mr. Damache and his designation to a mid-Atlantic regional facility would be more conducive to these visits in view of the necessary travel involved and the greater presence of ICPO representatives in the region. These visits will almost certainly be the only ones he receives during his incarceration.

Should you require any additional information, I can be contacted on 011-353-1-505-3110 or email me on leslie.alcock@iecon.ie.

I thank you for your attention in the above.

Kind Regards,



Leslie Alcock
ICPO Caseworker

ICPO
Columba Centre
Maynooth
Co Kildare
Ireland
W23 P6D3

Tel: 00 353 1 5053156
Fax: 00 353 1 6292363
Email: icpo@iecon.ie

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Sentencing Memorandum was served upon the following in the manner indicated:

ECF
The Honorable Petrese B. Tucker
U.S. District Court Judge
U.S. Courthouse
601 Market Street, Room 16613
Philadelphia, PA 19106

ECF & Email
Department of Justice
United States Attorney's Office
Eastern District of Pennsylvania
Assistant United States Attorney
Sarah M. Wolfe, Esq.
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476

GORSON & GORSON, P.C.

/s/ Noah Gorson
BY: Noah Gorson, Esquire
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Philadelphia, PA 19103
(215) 569-4661

DATE: October 29, 2018